



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

978364

UNITED STATES OF AMERICA,)	
)	
Plaintiff)	
)	
-vs-)	Case No.
)	S90-00056
CONSOLIDATED RAIL CORPORATION,)	
a/k/a CONRAIL,)	
)	
Defendant and)	
Third Party Plaintiff,)	
)	
PENN CENTRAL CORPORATION,)	
et al.,)	
)	
Third Party Defendants.)	
-----)	

The deposition of LAWRENCE SIDNEY SLABAUGH

Date: Friday, December 11, 1992

Time: 12:20 o'clock p.m.

Place: Suite 312
205 West Jefferson Boulevard
South Bend, Indiana

Called as a witness by the Plaintiff
in accordance with the Federal Rules of Civil
Procedure, pursuant to notice duly served and
agreement between counsel for the parties.

Before Richard L. Holle, CSR, CP
Notary Public, State of Indiana

1 MR. KURT N. LINDLAND
2 U.S. Environmental and Natural
3 Resources Division
4 Environmental Region 5:CS-3T
77 West Jackson Boulevard
Chicago, IL 60604

5 For the Plaintiff;

6 MR. JAMES A. ERMILIO
7 Bingham, Dana & Gould
1550 M Street, N.W.
Washington, D.C. 20005

8 For Consolidated Rail Corporation;

9 MR. PIERCE E. CUNNINGHAM
10 Frost & Jacobs
2500 East Fifth Street
11 Cincinnati, OH 45202

12 -and-

13 MR. GLENN ROSSWURM
14 May, Oberfell & Lorber
300 North Michigan Street
South Bend, IN 46601

15 For Penn Central Corporation.
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I N D E X

THE DEPOSITION OF

LAWRENCE SIDNEY SLABAUGH

DIRECT EXAMINATION

By Mr. Lindland.....Page 4

CROSS EXAMINATION

By Mr. Rosswurm.....Page 70

REDIRECT EXAMINATION

By Mr. Lindland.....Page 71

PLAINTIFF'S EXHIBIT NO. 1

Diagram of Elkhart Yard.....Page 53

LAWRENCE SIDNEY SLABAUGH,

called as a witness by the Plaintiff, being first
duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LINDLAND:

Q Would you please state your full name for the
record?

A Lawrence Sidney Slabaugh.

Q What's your address Mr. Slabaugh?

A

(b) (6)

Q And your phone number, please?

A

(b) (6)

Q As I mentioned earlier, my name is Kurt Lindland; I
represent the United States Environmental
Protection Agency in the action for which we are
here today. If you have any questions or if I ask
a question that you don't understand, say you don't
understand it and I can rephrase it for you.

A Okay.

Q If you need to leave for any reason let me know and
we can arrange for that as well.

If you hear a question, you should answer the
question unless your attorney instructs you
otherwise. Okay?

1 A Uh-huh.

2 Q Will you familiar with the oath that you just took?

3 A Yes, I am.

4 Q Do you recognize that oath as binding on you today
5 as it would be in a court of law?

6 A Yes.

7 Q Have you ever been deposed before?

8 A Never.

9 Q Have you ever testified at trial before?

10 A No.

11 Q I'd like to ask you a few questions about your
12 preparation for this deposition.

13 A Okay.

14 Q Have you spoken with anyone regarding this
15 deposition?

16 A Yes, I have.

17 Q Who did you speak with?

18 A Bill Martin, my foreman, and his boss, Ron
19 Schwartz.

20 When I found out that I was going to be
21 deposed I mentioned it to them, and they talked to
22 me about it.

23 Q Okay. Beginning first with Mr. Martin, what did
24 you talk about?

25 A I just -- I was interested in what would happen

1 when I came here, you know, the mechanics of it, I
2 guess, and he just basically told me the same thing
3 that Mr. Schwartz did, and that is to just, you
4 know, tell them what you know. Things that you've
5 heard of and rumor type things they are probably
6 not interested in. Just tell them what you know to
7 be a fact, and tell the truth.

8 Q Did they discuss with you any of the substance what
9 we would talk about today?

10 A No.

11 Q You mentioned that Mr. Schwartz said the same
12 thing.

13 Did you talk about something else with
14 Mr. Schwartz?

15 A Huh-uh.

16 Q Other than the procedure of this deposition?

17 A No.

18 Q Did you speak with anyone else in preparation for
19 your deposition today?

20 A I really didn't do much preparing. I've -- it's
21 been mentioned, you know, but I just tell you what
22 I know, and what I don't know, why I don't know.

23 Q When you say it's been mentioned, who has it been
24 mentioned by?

25 A Well, we have a lunch room that we sit around the

1 table and -- we solve world problems there, and it
2 was part of that -- part of that process, but it
3 really was just a passing thing.

4 Q Who was in the lunch room with you when you were
5 discussing it, do you remember?

6 A Not exactly, but it would be our normal gang. The
7 plumber, the other electrician, and probably a
8 machinist, but there again they come and they go,
9 you know, they are getting dressed and they are in
10 and out of that little room there and this was not
11 a highlight or anything. It was just -- you know,
12 we were just solving world problems.

13 Q Okay. Do you remember whether carbon tetrachloride
14 was ever mentioned in the lunch room?

15 A I don't think it was.

16 Q Do you remember whether trichloroethylene was ever
17 mentioned?

18 A I don't remember.

19 Q Did you speak with anyone else prior to this
20 deposition about this case?

21 MR. ERMILIO: You mean other than his
22 attorney?

23 MR. LINDLAND: Right.

24 Q Obviously other than your attorney.

25 A Well, I don't know what level you want to take that

1 to. You know, I talked with my wife about it and
2 told her I was going to go give a deposition, but I
3 mean it was just -- not with anybody as far as any
4 depth. The people that I talked with -- and that
5 really wasn't in depth-- was Bill Martin and Ron
6 Schwartz.

7 Q So that was the deepest that you talked about this?

8 A Yes. These other guys, you know, we just talked
9 about "You are going for a deposition?"

10 And "Yeah," and then we -- that was about it.

11 Q And that was it. Okay. Did you prepare any
12 documents such as memorandums or notes in
13 preparation for this deposition?

14 A No. No.

15 Q Did you send any letters to anyone?

16 A No.

17 Q Did you review any documents prior to coming here
18 today?

19 A No.

20 Q Do you know whether your attorney has reviewed your
21 files at Conrail in preparation for this
22 deposition?

23 A I don't even know that.

24 Q Do you have any documents other than those in your
25 files at Conrail that relate to your job at

1 Conrail?

2 A Say that again.

3 Q Sure. I understand that you may have some files at
4 Conrail that are yours, is that right? Records, do
5 you have them?

6 A I keep -- I keep like a notebook that has -- it's
7 basically wiring diagrams for different equipment
8 that I work for because I can't remember it all,
9 and I have that kind of a file.

10 Q Okay.

11 A But other than that, well, Conrail keeps any files
12 as far as anything else would go.

13 Q Okay. I guess what I'm referring to is if you need
14 material, for example, you need to order some wire.

15 A Oh. Okay. All right.

16 Q Do you have those kind of records?

17 A Yes. That boils down to an accountant reference
18 number and a description of my own of the item that
19 I'm getting, because the catalog that Conrail
20 provides us doesn't always -- isn't always clear to
21 me what the item I would be ordering is.

22 Q Okay. But it's those kinds of records that I'm
23 interested in. Okay?

24 A Uh-huh.

25 Q Or repair records. Do you have any other records

1 other than those at Conrail that you keep? For
2 example, do you have a file at home?

3 A Oh, no.

4 Q Or in your car something like that?

5 A In fact the one that I told you about, the wiring
6 diagrams, are in my vehicle.

7 Q Okay. Is that the only record relating to your job
8 that you keep in your car?

9 A Yes. That -- a book with phone numbers in it, that
10 kind of thing, but no -- no material or anything
11 like that.

12 Q Okay. I'd like to ask you a few questions about
13 your educational background and former employment.

14 If you could just state in summary form your
15 education since high school.

16 A Okay. I'm a high school graduate, and as far as
17 formal education after that, I did four or five
18 years at what we call the Elkhart Area Career
19 Center.

20 Q Okay.

21 A Night school.

22 Q Where did you go to high school?

23 A Goshen High School.

24 Q That's Goshen, Indiana?

25 A Goshen, Indiana.

1 Q What year did you graduate?

2 A 1967.

3 Q And you started to tell me then about a career
4 center?

5 A Yeah. That was electronics and a welding class,
6 refrigeration class, that type of thing, work
7 related.

8 Q You said refrigeration class?

9 A Uh-huh.

10 Q What what is the name of that school?

11 A It's the Elkhart Area Career Center. Within that
12 career center umbrella is everything from
13 upholstery to cosmetics, under that umbrella.

14 Q Okay. What year was that?

15 A It wasn't all in one year, and I don't remember the
16 exact years. I'd have to --

17 Q Was it after 1967?

18 A Oh, yes definitely. Yes.

19 Q Was it -- okay. Did you go there right after high
20 school?

21 A No. I worked. Well, like the refrigeration class,
22 I came on this B & B gang with Bill Martin in
23 around 1976, and that's when I saw the need for
24 that.

25 Q Oh, I see.

1 A Heating and air conditioning, I went back to school
2 and did some of that.

3 Q Okay. So that was after 1976?

4 A Yes. I just don't remember.

5 Q Okay. That's fine.

6 Now, you mentioned there was a refrigeration
7 class. What do you mean by "refrigeration"?

8 A You go to the class and they teach you the theories
9 behind refrigeration and air conditioning, and --

10 Q Did they -- did they teach you how to clean
11 refrigeration equipment?

12 A That's -- I don't remember that they did
13 specifically that. It was more theory in a book,
14 and I don't remember if we covered that. It seems
15 logical that they would have, but I don't remember.

16 Q Okay. Do you have the book still, do you know?

17 A No. I don't think I have the book anymore.

18 Q Okay. Did they teach recharging refrigeration
19 equipment in that class; in other words, how to
20 recharge a refrigerator?

21 A Yes, they covered those subjects.

22 Q Do you remember anything that was said relating to
23 recharging refrigeration?

24 A Not specifics anymore. I remember the general --
25 you know, the general topics, but not specifics

1 necessarily.

2 Q Did they discuss the type of material that you use
3 to recharge refrigeration equipment?

4 A Are you talking about the refrigeration gases?

5 Q Right.

6 A Well, yes. I'm not sure what you are looking for
7 there, but they talked about it.

8 Q Okay. Do you remember what kinds of gases; in
9 other words, any brand names?

10 A Refrigerant 12 and Refrigerant 22 were the ones
11 that we dealt with mostly.

12 Q When you say "mostly," is that strictly or did you
13 have other ones you dealt with?

14 A Well, I don't remember the kind of detail that you
15 are looking for, and 12 and 22 are in my mind the
16 most common. And so I'm sure that we dealt with
17 those, but I know that there's other gases out
18 there.

19 Q Okay. Did they discuss any of the hazards
20 associated with refrigerant material?

21 A I have heard so much of that hazard pros and cons
22 in the news that I in my mind it's -- I don't know
23 where they picked up and left off.

24 Q Okay. So you don't remember specifically whether
25 hazards --

1 A No.

2 Q (Continuing) -- were discussed in this class?

3 A No, I do not.

4 Q Okay. Is the Elkhart Career Center still there
5 today?

6 A You bet.

7 Q Do they still have a refrigeration class there, if
8 you know?

9 A I don't know for a fact, but I -- I'm going to
10 assume. I guess I'm not supposed to do that, but I
11 can't imagine them not having one there.

12 Q Okay. All right. Have you had any other classes
13 other than the refrigeration class?

14 A No.

15 Q Did you take any other classes at the career
16 center?

17 A I took two or three years of electronics and
18 welding and refrigeration.

19 Q Do you remember whether the handling or use of
20 hazardous materials was ever discussed in any of
21 those classes?

22 A No. I don't believe it was. I -- not in the
23 context you are talking about, I don't think so.

24 Q How about in any any context?

25 A Well, probably under a context where they would

1 say, you know, like in a welding class that fumes
2 from a galvanized pipe, if you breathe the fumes
3 that's poisonous, you know.

4 Q Okay.

5 A And the training session might have been just
6 exactly like I just talked with you about it.

7 Q Okay.

8 A And if that's a quote-unquote training session then
9 they had one, and if that's just casual
10 conversation transferring information, then we had
11 that.

12 Q Okay. I would consider that a training session.

13 A Okay. Then that was -- yes, we had some training
14 in it.

15 Q Okay. Other than that specific instance, do you
16 remember any other discussions or training classes
17 relating to hazardous materials?

18 A I know that -- that it -- no, I don't remember for
19 sure.

20 Q Okay. Did you have any other classes or seminars
21 or training other than that at the Elkhart Career
22 Center?

23 A No. That's all that I was there for.

24 Q When did you first become employed after 1967?

25 A About 10-28-68, I believe is when I hired out.

1 Q Who did you work for in 1968?

2 A I hired out and I worked in the locomotive shop,
3 and --

4 Q Is this with Conrail?

5 A Well, Penn Central.

6 Q Locomotive job?

7 A Yes, diesel house, locomotive house, diesel shop.

8 Q What was your position in 1968; can you answer now?

9 A Electrician.

10 Q Electrician?

11 A Uh-huh.

12 Q We had an individual in here yesterday who is also
13 an electrician, and he described his
14 responsibilities as an electrician in the engine
15 house in that he would fix the circuit boards
16 and --

17 A Uh-huh.

18 Q (Continuing) -- the electronics in an engine.

19 A Uh-huh.

20 Q Is that basically what you do?

21 A Yeah. Back when I was there, there was definitely
22 electronics there but not to the extent that there
23 is now, and they were set up more like a Motorola
24 Quasar TV, plug in and out, you know, but we did
25 troubleshooting and repair.

1 Q Okay.

2 A So I agree with what he's saying pretty much.

3 Q My goal here is to not burden the record with
4 repetitive testimony that we had yesterday. And
5 what I'm interested in, though, is what you did
6 that would have been different. If you know
7 offhand, I believe that individual's name was
8 Mr. -- I think --

9 MR. ERMILIO: Bill Hutchinson.

10 BY MR. LINDLAND:

11 Q Hutchinson. If you know what Mr. Hutchinson's job
12 was, and you know that yours is different, if you
13 could just articulate what was different about it,
14 in 1968.

15 A Really, there -- other than the fact that I was new
16 and he had -- has been there longer than I have,
17 and the level of troubleshooting that he would have
18 been expected to know and understand how to do,
19 would have been deeper than mine, basically it was
20 the same job.

21 Q I see. Okay. In 1968 are you aware of any
22 cleaners used on electrical components?

23 A We used -- it came through Conrail stores and it
24 was called E-63.

25 Q E-63?

1 A Uh-huh. And I think -- the same can said
2 Cleve-Tech on it. I think that's Cleve-Tech --

3 Q Okay.

4 A I'm not sure how it all -- you know, I think that
5 Cleve-Tech was Cleveland Technical or something
6 like that, but it was on the same can.

7 Q What size cans were those, do you remember?

8 A Like you get a -- an aerosol can of spray paint at
9 the hardware store (indicating).

10 Q Do you know whether that material contained carbon
11 tetrachloride?

12 A I don't believe it did.

13 Q Do you know whether it contained trichloroethylene?

14 A I don't believe it did.

15 Q Why do you say that you don't believe that it did?

16 A Well, some of the oldtimers that were there at the
17 time implied to me that in the past, they had used
18 carbon tet and trichloroethylene, and I'm not
19 saying they used it on the railroad. Some of these
20 guys were Navy guys, and they indicated that it was
21 hard on the person that was using it, and that they
22 didn't use it anymore.

23 I just didn't pay that close of attention.

24 Q Okay. When you say "oldtimers," who are you
25 referring to other than Mr. Hutchinson?

1 A Charlie Harper.

2 Q Is he still with Conrail today?

3 A No. He's retired a long time ago.

4 Q Does he live in the Elkhart area?

5 A To the best of my knowledge, he married --
6 remarried and moved to Florida, I think.

7 I'm going to say four years ago, something
8 like that.

9 Q Do you know where in Florida?

10 A Don't have the foggiest.

11 Q What other oldtimers were you referring to?

12 A Lenny Dombrowski.

13 Q Dombrowski?

14 A Uh-huh.

15 Q Is he with Conrail today?

16 A No, he's --

17 Q Is retired?

18 A Retired a long time ago, yes.

19 Q Does he live in Elkhart?

20 A No, he doesn't live in Elkhart. Dowagiac Michigan,
21 I think.

22 Q Do you know where Dowagiac, Michigan is, roughly?

23 A Oh.

24 Q Is it near Detroit?

25 A No. Go north of Niles, Michigan.

1 Q Okay. Southwest Michigan?

2 A Yes. Yes. It's -- I'm going to say, you know, 30
3 miles away.

4 Q I can look at a map.

5 Any other oldtimers, if you remember?

6 A Those are the ones that would have helped me to
7 know that.

8 Q Okay. Now, when you said that they implied to you
9 that it was used, what do you mean by that?

10 A They would say something along the lines of "This
11 stuff" -- you know, we would be cleaning something
12 and they would say "This stuff is good, but you
13 know, carbon tet was a lot better, but we can't use
14 that, you know" or "don't use it anymore" or "don't
15 get it anymore."

16 And it was really ...

17 Q Okay. Do you ever remember them discussing the use
18 of carbon tet at the rail yard?

19 A No. I don't know if their context was using it at
20 the railroad or in the Navy or even if they
21 actually, you know, just knew that it was supposed
22 to be a better cleaner.

23 I just --

24 Q Didn't know. Okay.

25 A Yes.

1 Q Are you aware of any other cleaners used on --
2 well, are you aware of any other cleaners used in
3 the engine house in 1968, other than what you
4 identified as E-63 cleaner?

5 A There are was a cleaner that came in a 55-gallon
6 drum that they would use to wash locomotives with,
7 with a high pressure washer like a car wash.

8 What was -- what was in it, I don't have the
9 foggiest idea.

10 Q Okay. Did you ever see them wash the engines?

11 A Yes, sure.

12 Q Do you remember any vapors or smells associated
13 with that material?

14 A Yeah, it was hard to -- hard to breathe around it,
15 so you would just clear out.

16 Q Why was it hard to breathe around it? Was it kind
17 of like paint thinner, kind of vapory?

18 A No. If you would breathe it, it would just be
19 uncomfortable. It didn't smell real good, and
20 it was just kind of uncomfortable.

21 Q Had you ever heard of carbon tet prior to when
22 these guys talked to you in 1968?

23 A No.

24 Q Have you ever heard of the since then?

25 A Yeah, just as -- in talking, you know.

1 Q In talking about what?

2 A Just -- just -- you are going to ask me probably
3 for specifics, and I don't remember, but it would
4 be a conversation like around the lunchroom table,
5 you know, solving world problems, but I don't
6 remember specifics, but it's been mentioned, sure.

7 Q Do you remember the context in which it -- in which
8 it was mentioned?

9 A Not exactly, no.

10 Q In other words, was it mentioned as a cleaner,
11 mentioned as a hazardous material, or both, or
12 something else, maybe?

13 A I would guess that the context was along the lines
14 of we used to use carbon tet or carbon tet used to
15 be used as a cleaner and it's not anymore.

16 And --

17 Q Do you remember the dates associated with that
18 discussion?

19 A No.

20 Q Do you remember when those discussions took place?

21 A If I had to guess, I'd say I hired out in '68; it
22 would probably be between when I was in my
23 apprenticeship time, you know, '68, '70, in through
24 there, you know, that time frame.

25 Q Do you remember any of the individuals who you

discussed that with, other than Mr. Dombrowski and Mr. Harper?

A No. That would be -- you know, they were both electricians, by the way, and -- I undoubtedly did, but I don't remember any specifics.

Q Okay. What about the trichloroethylene; have you ever heard that term before?

A I've heard it before.

Q If you could describe the nature surrounding how you've heard it.

A I heard it because my father-in-law mentioned it to me.

Q Oh, yes?

A He used to be a -- he's retired, but he was a -- worked in the maintenance department at a company in Goshen called Johnson Controls, or at that time I guess it was Penn Controls. He mentioned that.

Q What did -- oh, okay. First of all, when did he mention that?

A I'm going to put it in the time frame of my early apprenticeship there.

Q Okay.

A '68, '70, in through there.

Q Do you remember what he mentioned? I mean --

A Just that that was something that was -- that was

1 used.

2 Q When he was at Johnson Controls?

3 A No, not necessarily.

4 Q Just something that he used?

5 A Just something that he was aware of that was used.

6 Q Do you remember why you were talking to him about
7 trichloroethylene?

8 A I -- well, that would have been mentioned in
9 passing. I used him as a source to teach me
10 things. He had worked in the maintenance field
11 and was very knowledgeable -- is very
12 knowledgeable.

13 Q So he is a -- he's an electrician as well, is
14 that --

15 A No. He is -- I don't know what his title was. He
16 was over their maintenance department, but he
17 was -- he could do it all.

18 Q Okay. So he was just -- you would talk to him
19 about general knowledge stuff?

20 A Yes. If there was something that I didn't
21 understand, although he wasn't connected with the
22 railroad, why, he was a very knowledgeable person.

23 Q Do you remember whether he talked about
24 trichloroethylene as a cleaner?

25 A I don't remember.

1 Q Do you remember hearing trichloroethylene mentioned
2 after that discussion at any time?

3 A No. Not unless it would have been on the news or
4 something like that, but ...

5 Q So between today and roughly 1968 to the early
6 seventies, you haven't heard trichloroethylene
7 mentioned?

8 A Not to my recollection. That's -- that's a pretty
9 long time, and a lot of years and a lot of
10 conversations in there, but I don't remember
11 anything special.

12 Q Okay. Do you remember whether your father-in-law
13 mentioned trichloroethylene with respect to the
14 rail yard?

15 A Oh, no.

16 Q It wasn't related to that at all?

17 A No.

18 Q How long did you work in the engine house beginning
19 1963?

20 A From '68 to '76, I believe is the time frame.

21 Q And during that time, did your responsibilities
22 change in the engine house, or were you pretty much
23 like a troubleshooter I guess as you have described
24 it?

25 A Yes, pretty much just a troubleshooter.

1 Q Now, without again going over more information that
2 we already have based upon Mr. Hutchinson's
3 testimony, when you say "troubleshooting," you mean
4 you would be called in to solve a problem, specific
5 problem that somebody else could not fix, is that
6 accurate?

7 A Not entirely. I don't want to be repetitive here,
8 too, but I want to make sure that we understand.

9 Q Sure.

10 A When there's a set of engines going to be taken out
11 and put on a train, those engines are coupled
12 together and what they call mule the engines so
13 that electrically they work as a team. You have to
14 go through and do all the things that you have to
15 do to make that happen. And then you test your
16 work.

17 That's the bread and butter of what's going
18 on there.

19 Q Okay.

20 A Now, the engineer has a sheet that when he has a
21 defect or something that doesn't work right on the
22 engine, he writes it up on that sheet, and if you
23 are not making these hookups, they call them, then
24 you would fill in your time by going and
25 troubleshooting that locomotive.

1 Q Okay. I understand.

2 A So --

3 Q Okay.

4 A Just to clarify again.

5 Q That's fine. Thank you.

6 Okay. So you were basically a troubleshooter
7 until 1976?

8 A Uh-huh.

9 Q And what happened then in 1976?

10 A I went to the B & B Department. That's Bill
11 Martin's department.

12 Because I could get better days off.

13 Q Okay. What were you as a B & B employee? In other
14 words, what was your title?

15 A Electrician. Electrician.

16 Q Do you remember who your supervisor was in 1976?

17 A My foreman was a fellow by the name of John
18 Dinehart.

19 When you say "supervisor," I'm thinking of a
20 fellow that would be over him. Bill Bunting.

21 Q Bunting?

22 A I believe.

23 Q Is Mr. Bunting still with Conrail today?

24 A No. He's --

25 Q Is he retired?

1 A Yes, he's retired -- I don't know how long.

2 Q Is he in Elkhart?

3 A No. He was -- he was -- his location, his work
4 location was in Chicago.

5 Q He was your supervisor even though he was in
6 Chicago?

7 A Well, my foreman -- we might be tangled up on terms
8 here, but my foreman was John Dinehart.

9 Q Okay. He was your immediate supervisor?

10 A Yes.

11 Q Okay that's what I'm interested in.

12 A Yes, John Dinehart.

13 Q Okay. Was Mr. Dinehart -- okay. Strike that.

14 Briefly again, without burdening the record,
15 based on testimony we had yesterday by
16 Mr. Hutchinson, as an electrician in the B & B
17 Department, he testified that he was responsible
18 for general maintenance of electrical components in
19 the building and structures in the yard.

20 Is that the same as your position since 1976?

21 A Since '76, yes.

22 Q All right. Since 1976 have your responsibilities
23 changed?

24 A Only in that I fill Bill Martin's vacancy when he's
25 on vacation.

1 Q Okay. Now, you said that basically your
2 responsibilities are the same. Although you
3 mentioned earlier that you attended a refrigeration
4 class because your job at Conrail was related to
5 that?

6 A Uh-huh.

7 Q And Mr. Hutchinson testified yesterday that he did
8 not really have any responsibilities for
9 refrigeration.

10 A Uh-huh.

11 Q Is that accurate?

12 A Yes, pretty much.

13 Q Okay. Do you have more experience with
14 refrigeration at Conrail?

15 A Yes. Yes.

16 Q Could you describe to me your responsibilities
17 associated with the refrigerating equipment?

18 A Basically the responsibility would be -- first, if
19 your air conditioning doesn't work, you would call
20 my boss, and at that point he would look for
21 somebody, a qualified individual to go look at it
22 and do what's needed to fix it.

23 Q Okay. Are refrigerants stored at Conrail?

24 A Yes. Yes.

25 Q And where are they stored?

1 A Boy, I better back up. They have been stored in
2 the past. I might be assuming that they are
3 storing some now and they are not.

4 Q Okay. Where were they stored in the past?

5 A Okay. Out behind our shop is a semi trailer with
6 material in it.

7 Q Okay.

8 A And I am not talking -- I'm talking a 30-pound
9 container of it, that type of thing, but you can go
10 through 30 pounds of refrigeration and be out of
11 it.

12 Q 30 pounds, you say?

13 A Yes, it's a container that holds 30 pounds.

14 Q What kind of container are you talking about?

15 A It's steel.

16 Q Is it like a propane tank?

17 A Well, it -- yes, like for -- that you'd see on a
18 small travel trailer, in that ballpark, smaller
19 than that.

20 Q Are you responsible for recharging refrigerated
21 cars?

22 A No.

23 Q Who is responsible for that?

24 A To my knowledge it's never been done in Elkhart.
25 I'm going to -- I don't know.

1 Q Going back to the air conditioning refrigerants,
2 how do you recharge an air conditioner with
3 refrigerants?

4 A The mechanics of it?

5 Q Right.

6 A The gas got away somewhere, so you find how it got
7 out, repair that, and then you vacuum all the air
8 out of the system and then recharge it with the
9 correct amount of refrigerant, correct type and
10 amount.

11 Q Approximately how much refrigerant do you go
12 through in a month?

13 A That's really hard to say. I'm going to guess that
14 in a year's time we would go through two 30-pound
15 containers of it.

16 Q Okay.

17 A It's hard to say.

18 Q Right. I understand that.

19 Are there any common trade names of
20 refrigerants that are used?

21 A Freon 12, Freon 22.

22 Q Freon 12?

23 A Uh-huh.

24 Q Have you ever used Freon 10?

25 A Not to my knowledge. There's not anything on

1 the --

2 Q What is Freon 10, do you know?

3 A I've never heard of it until just now.

4 Q Okay. Have you ever heard of any other kind of
5 Freon?

6 A Yes. 502 I think there is.

7 Q And what is 502 used for?

8 A I know that it's in certain ice machines, ice
9 making machines.

10 Q Is there an ice making machine at the Conrail rail
11 yard?

12 A Yes. A lot of them.

13 Q Do you use Freon 502 in them?

14 A I think there's one or two that have it.

15 Q And then you recharge -- you recharge those then, I
16 presume?

17 A I don't believe they have ever had gas added to
18 them. I think it's just on the label there that
19 tells you.

20 Q If you didn't recharge them, is there anybody else
21 who would?

22 A Yes. There's a fellow by the name of Ralph Holcomb
23 that does some work like that.

24 Q Do you know who the manufacturer of Freon 12 and
25 Freon 22 is?

1 A I think it says DuPont on the tank.

2 Q Do you know whether -- strike that.

3 Are you familiar with a material safety data
4 sheet?

5 A Uh-huh.

6 Q Do you know whether those Freon 12 and Freon 22
7 have material data safety sheets?

8 A I'm sure they do.

9 Q Do you know whether they are kept in the B & B
10 buildings?

11 A I don't believe that they are.

12 Q Do you know whether they are kept at Conrail?

13 A I'm trying to remember just where, but someplace I
14 saw a notice that said that they have an MFDS sheet
15 for everything that we use, and if you -- if you
16 have any specific questions about it, you can call
17 a number that was on that sheet, and they would
18 make you a photocopy and get it to you or answer
19 your questions.

20 Q Do you remember what the Area Code for that number
21 was?

22 A No.

23 Q Do you know -- do you remember whether it was in
24 Pennsylvania or Elkhart?

25 A I believe it was in Dearborn, but I don't know what

1 the numbers are.

2 Q Do you know whether there's an individual in
3 Dearborn whose responsibility for managing the
4 MFDS's?

5 A No.

6 Q You don't remember the name on that notice that you
7 recall?

8 A No.

9 Q Did Conrail use any other refrigerants other than
10 Freon 22 and Freon 12 that you know of?

11 A Not that I know of.

12 Q Are you familiar with "chlorinated solvents," that
13 term?

14 A Not really familiar with it.

15 Q Are you familiar with the term "solvents"?

16 A Yes.

17 Q Are you familiar with any spills of Freon 22 or
18 Freon 12 or releases?

19 A When -- when we go to an air conditioning system
20 that's not working and it's not working because
21 there's no gas left in it, it went somewhere, so
22 under those contexts, I would say yes.

23 Q Okay. So --

24 A That's a release.

25 Q By the fact -- based on the fact that there is no

1 refrigerant in the unit when there was before --

2 A Uh-huh.

3 Q (Continuing) -- you are saying that there was a
4 release because there isn't any in it?

5 A Yes, it went somewhere.

6 Q Okay. What about any releases from the tanks that
7 you've identified, the 30-pound tanks?

8 A Not that I am aware of.

9 Q What about during filling; are you aware of any
10 spills that occurred?

11 A Now, here again, I'm not sure at what level you are
12 talking about that, but when you charge a system,
13 you don't want any air in there, and then this
14 little hose that goes between your can and the
15 system has air in it, so you turn the gas on and
16 get just a little push out the end of it.

17 Q To clean the air out of the line?

18 A To clean the air out of it, and then you put it on
19 the system and that's a release if you want to get
20 technical about it.

21 Q I see.

22 A So that, you know --

23 Q That's okay.

24 A But that's a -- I mean that -- I don't know how --
25 how particular you are wanting to be, but that's a

1 release, but it's sure not much of a one.

2 Q Are you familiar with any other releases other than
3 those?

4 A Other than just systems that have been, you know,
5 damaged in some way and released it, you know, but
6 that's all.

7 Q How are systems damaged?

8 A Pssst. I've seen them with bullet holes in them.
9 My speculation at this point would be that this
10 operator, whoever occupied that office, was
11 unpopular with the person that put the bullet hole
12 in the air conditioner and now he's hotter than
13 heck when he used to be cool.

14 But that's speculation.

15 Q How many times have you found bullet holes in the
16 air conditioning units?

17 A Normally it's a window air conditioner, and I'm
18 going to guess at six.

19 Q Since 1976?

20 A Yes. And I better -- I better say that some of
21 those holes could have been punched in there with
22 something besides a bullet, some sharp object.

23 But some of them I'm sure were with a bullet.

24 Q How do you know that they were from a bullet? Did
25 somebody tell you that?

1 A I don't know that. I don't know that.

2 Q Have you ever found a bullet in one?

3 A I've seen holes that looked to my untrained eye
4 like a bullet, and the unit would be upon a second
5 floor sticking out a window where somebody had to
6 be really good to get up there at it, you know.
7 But it may not have been. I don't know that.

8 Q Are you aware of any other accidents to where
9 refrigerant has been lost?

10 A Nothing comes to my mind right now. Nothing comes
11 to my mind.

12 There may have been, but I just don't
13 remember.

14 Q Okay. If something does come to your mind
15 throughout the remainder of the afternoon, if you
16 could just mention that.

17 A Okay.

18 Q Say "I remember something."

19 That would be great.

20 A Yes.

21 Q Are you aware of any refrigerated cars involved in
22 any accidents out at the site?

23 A No. When I was at the engine house, we were kind
24 of in our own little world there. And now that I'm
25 in the other -- the B & B Department, we do get

1 around and about, but like at a derailment we are
2 there after the cleanup usually to shine lights for
3 the Track Department, and we don't even do that
4 anymore.

5 No, I'm not aware.

6 Q Okay. I'm speaking specifically now about
7 refrigerated cars.

8 A No.

9 Q If there was a spill of this refrigerant material,
10 would you have documented that in any way?

11 A No, probably not.

12 Q Would anybody have documented it?

13 A I doubt it.

14 Q Are losses of materials usually documented; that
15 is, losses of paint or something else used in the
16 B & B building?

17 A To my knowledge normally not.

18 Q Okay. What do you mean by "normally"?

19 A I know of material that comes up missing, and a lot
20 of times you'll find out that some other department
21 on the railroad needed it for something, and it's
22 just accepted you don't hold up a millions of
23 dollars worth of freight for a couple of hours to
24 go to a hardware store for something when you can
25 snap a lock off of a door and get what you need out

1 of there what you need to run that train.

2 So that sort of thing goes on. Usually it's
3 one department taking from another one, so over a
4 period of time you get kind of used to that kind of
5 thing.

6 But I do -- and I don't remember dates, but I
7 can remember when Conrail police would be involved
8 with something that was -- that didn't fit into
9 that context.

10 Q What do you mean by that? There was somebody stole
11 something?

12 A Yes. You know, there would be something -- the
13 last thing that comes to my mind, and I don't
14 remember when, but it was recently -- well, I --
15 and here again, I'm dealing with what I heard. I'm
16 not firsthand. But there were some floormats.
17 There was a large quantities of floormats bought
18 for use around the yard, and they wound up missing,
19 and the police were involved with that, and they
20 recovered them, I think.

21 Q Were you aware of any incidences like that with the
22 floormats regarding liquids, paint or paint thinner
23 or refrigerants? Those are just examples, but ...

24 A There again, we are talking quite a few years, but
25 no major things.

1 Q Okay. How about minor?

2 A Yes, that kind of thing goes on all the time --
3 well, I shouldn't -- here's what I'm thinking:
4 Like back at the engine house, you would have a
5 half a gallon can of -- or a half a spray can of
6 cleaner that you were going to use, and you set it
7 on the running board of the engine, went in to take
8 a leak, and you came back and it was gone.

9 That kind of thing.

10 Q Okay. So material is misplaced or lost on a
11 regular basis?

12 A Well, it happens. I don't want to say regular,
13 but -- but it's not -- I don't know if I would use
14 the word "misplaced."

15 You know, just like the running board there,
16 you probably look down there and you will probably
17 find another electrician that took your half a can
18 because he didn't feel like going to his locker to
19 get his.

20 He's not necessarily trying to try to hide it
21 from you. He might use two squirts and use yours
22 and might even bring it back in five minutes.

23 That type of thing.

24 Q Would people go between departments? For example,
25 would somebody from the car shop come over to

1 get --

2 A Oh, you betcha.

3 Q Come over to get cleaner and things like that?

4 A Sure. I'm not saying just cleaners. I'm saying
5 material in general.

6 Q Everything?

7 A Yes, shopping around --

8 Q So in fact that material may be used at one time in
9 one location doesn't mean it won't move to another
10 location?

11 A It happens.

12 Q Okay. Are you familiar with the purchasing
13 procedures at Conrail? In other words, if you want
14 to buy some refrigerant, how would you buy it?

15 A Up until recently -- I'm going to say the last
16 year -- when we wanted an item there's a stack of
17 catalogs literally that high (indicating), and
18 there will be an accountant reference number and a
19 short description of that item, and then you would
20 use that -- take that information and put it on an
21 order blank, and that's the part I'm familiar with.

22 Q Okay.

23 A It disappears into the paper mill after that point
24 and that's it.

25 Q What stock number would a purchase of refrigerant

1 have been charged to? In other words, I am
2 familiar with stock numbers ranging from 1 through
3 50.

4 A I couldn't even tell you.

5 Q Without looking at the catalog?

6 A Yes. I would have to try and find it.

7 Q Does stock No. 47 mean anything to you?

8 A The 47 account, I recognize it as one of those 50
9 account numbers that -- or I think I recognize it.

10 Q Do you remember what material falls within account
11 47?

12 A No. See, I've never done a whole lot of that.
13 I've done some, but not enough to have it
14 memorized.

15 Q Okay.

16 A But there again, in the very beginning of the
17 catalog it would tell you.

18 Q Okay. Again, you are not familiar with any
19 refrigerants associated with rail cars, is that
20 right?

21 A No. To my knowledge it's never been done in
22 Elkhart.

23 Q Okay. Do you use any cleaners in the E & B
24 Department?

25 A Yes.

1 Q What cleaners do you use?

2 A We use a cleaner on our air compressors.

3 Q Do you know what kind of cleaner it is?

4 A No. I know it's a cleaner that we put on a
5 compressor, you know, and rinse it off with water,
6 and --

7 Q Was that in 1976?

8 A No, no. This is, you know, recently.

9 Q Now?

10 A Yes.

11 Q What about 1976; did you use any cleaners then?

12 A They had to, but the machinists normally would be
13 the one that would clean it. And --

14 Q Do you know who the machinist was in 1976?

15 A I believe that would have been a man that's retired
16 now by the name of Harvey Manderfeld.

17 Q Harvey Manderfell?

18 A M-a-n-d-e-r-f-e-l-d, I believe.

19 Q Is he in Elkhart?

20 A He did live in Elkhart, and to the best of my
21 knowledge, he still does.

22 Q Okay. Can you think of any other machinists in
23 1976 who worked in the B & B -- or worked on
24 equipment used in the B & B Department?

25 A I think he was the only one.

1 Q What about other material used in 1976? For
2 example, any other powders or liquids; can you
3 remember them?

4 A The only powder I can think of is a clay that they
5 used to clean up oil spills, and I -- I don't
6 remember any -- anything other special.

7 Q Okay.

8 A I know that they had to use some, but I don't
9 remember what it was.

10 Q What about paint thinners; do you remember any
11 paint thinners?

12 A They had to use something, but I don't remember
13 what, you know, what they used.

14 Q And you said now there's a cleaner that's used on
15 the air compressors, right?

16 A Yes.

17 Q Is it stored in a 55-gallon drum?

18 A No. We buy it from State Chemical.

19 Q Is that in Elkhart?

20 A That's from a salesman that comes around, and I
21 think it's South Bend, but I ...

22 Q Okay. Do you know what that material is? Is it
23 like volatile or a soap or --

24 A No. I -- I don't know what it is. I know that the
25 salesman that sells it to us, "It's safe for

1 everything. You could take a bath in it if you
2 wanted to."

3 I'm exaggerating, but everyone that we seem
4 to come in contact with nowadays is so
5 environmental concerned that, you know, when a
6 salesman comes in, you get a little leery almost of
7 all this, but anyway, I don't know what -- you
8 know, the particulars of it.

9 Q Right.

10 A But it's supposed to be safe stuff.

11 Q All right. How long have you used it?

12 A It's just been recently, because -- I'm going to
13 say within the last year.

14 Q What did you use before that?

15 A I really would have to guess at that point.

16 Q Is that because you didn't -- you weren't
17 responsible for cleaning the equipment, or you just
18 didn't pay attention?

19 A Well, here -- let me tell you what my guess is. I
20 think that they went to the engine house and got
21 their soap solution or whatever, their cleaner that
22 they got in their 55-gallon drums. I think they
23 came down and got some of that, and like a gallon
24 jug and used that to clean their compressor with.

25 Q Okay.

1 A But I'm not really a hundred percent sure, but that
2 would be my guess.

3 Q Is there anything else that you buy from State
4 Chemical?

5 A Yes. We buy spray electrical cleaner.

6 I think --

7 Q What kind of electrical cleaner do you use?

8 A Well, there again, it's an electrical/electronic
9 cleaner, and I don't know their brand name of it or
10 what the content is.

11 Q But that comes from State Chemical?

12 A Yes.

13 Q Are you familiar with Mid-City Supply?

14 A Uh-huh.

15 Q Do you use any materials from Mid-City Supply?

16 A Yes. Yes.

17 Q What do you use?

18 A I know we use plumbing fittings that we buy from
19 them.

20 Q Okay. I'm speaking now just liquids.

21 A Okay. I'm going to have to say I don't remember.

22 Q Do you know who would know other than Bill Martin?

23 A If Bill Martin didn't remember and I didn't, they
24 would just have to find a record, you know,
25 somewhere of it.

1 Q Okay. Are you aware of any special handling
2 procedures associated with any materials used by
3 B & B employees?

4 A I believe that there's a drain cleaner that they
5 use that has some special handling on it, but...

6 Q Is that like Drain-O would be?

7 A That type of thing, yes.

8 Q You mentioned there's an electrical cleaner that
9 you buy from State Chemical?

10 A Uh-huh.

11 Q In 1976 where did you buy your electrical cleaner
12 from, do you know?

13 A Okay. There's a change that's taken place in here
14 in the last year. Prior to that time we would
15 buy -- we would look this number up in our -- in
16 this accountant reference number catalog, and we
17 would fill this order out and we would send it in
18 and something would show up.

19 Q Okay.

20 A That went through Conrail purchasing.

21 Q Do you remember what account number you would use
22 for electrical cleaner?

23 A No.

24 Q Do you remember what the last account number you
25 used for electrical cleaner is?

1 A No. I just don't remember any of that.

2 If you could see one of those catalogs you
3 could see that each and every time you look a
4 number up it's a new and exciting challenge.

5 Q Okay. What kind of container did that electrical
6 cleaner come in?

7 A That was that E-63 stuff.

8 Q In 1968?

9 A Yes. That from my -- even in '68 when I hired out
10 that's what I remember us using.

11 Q Was it E-76?

12 A It was E-63 and it was that Cleve-Tech. It said
13 Cleve-Tech on the can and it was E-63 in big
14 letters on it.

15 Q All right. Are you familiar with any trial runs or
16 experimentations with new cleaners or solvents in
17 the B & B Department?

18 A No. No.

19 I started to explain that now we can buy
20 things with what they call a small value, and that
21 happened about a year ago.

22 Q Okay. I understand, again, to not burden the
23 record with repetitive deposition testimony, I
24 understand that you can now go out and purchase
25 things from Mid-City Supply or local vendors of

1 material?

2 A Yes. But that opened up a whole new range of
3 things.

4 Q Okay. What kind of authority is required for
5 somebody to go out and buy that stuff?

6 A There has to be an authorized signature on that
7 form, and that -- in order to have your name put on
8 there as an authorized signature, I think there was
9 another form that you signed, that would -- kind of
10 like your checking accounts.

11 Q Okay. Is Bill Martin the authorized signatory?

12 A He's one of the authorized signatures, yes.

13 Q Okay. Are you aware of anyone bringing -- or using
14 material at the B & B Department that was not
15 obtained through an authorized signature or through
16 the shop Purchasing Department?

17 A Through an authorized -- no.

18 Q In other words, is it common for people to bring
19 material from their home?

20 A No. Not --

21 Q And use it at Conrail?

22 A Huh-uh.

23 Q Do you know of that ever happening?

24 A Not material. Sometimes equipment.

25 Q What kind of equipment?

1 A An example would be I brought an air compressor,
2 gasoline-powered air compressor, a little portable
3 paint-your-house type of thing, when we needed one
4 for cleaning some air conditioning equipment. And
5 I brought it in and took it home with me that
6 night.

7 But that's -- that just doesn't happen. But
8 I can't say it never happens.

9 Q Okay. Have you ever heard of a hazardous substance
10 survey form?

11 A No.

12 Q Are you familiar with any spills of liquids at the
13 rail yard since you have worked there? And I
14 realize we are talking about a lot of years, so if
15 you would like to think about it in like between
16 '68 and '76 first and then '76 to the present,
17 that's fine.

18 A The only spills that come to my mind when you ask
19 that question, there's two but you can read about
20 them in the paper, and that's what I know most of
21 it from, is that they had an oil spill from the
22 main line fuel pad.

23 Q And when was that, do you remember?

24 A It was in the newspaper, but I don't remember the
25 date.

1 Q Seventies, eighties, nineties?

2 A Oh, no. I'm going to say '89.

3 Q Okay.

4 A It was in the Elkhart newspaper.

5 Q Okay. I'm familiar with in a spill and we have
6 heard testimony in the past on that spill.

7 A Okay.

8 Q So again to avoid burdening the record we won't
9 discuss that.

10 You did identify another spill.

11 A Okay.

12 Q Which one was that?

13 A There was a tank car, I think the newspaper said it
14 had chlorine in it, and that was within that I'm
15 going to say 89-90 time frame in there.

16 But that was in the newspaper, too, and I --

17 Q Okay. Do you remember whether that was a liquid?

18 A (Witness shook head.)

19 Q You don't know the specifics?

20 A No.

21 Q Do you know whether that was caused by a puncture
22 in the tank car?

23 A I think it was, yes. I think the tank car was
24 punctured.

25 I think.

1 Q Do you remember any other spills prior to 1989?

2 A There would be at the engine house they would spill
3 diesel fuel from time to time from an overfill on
4 an engine.

5 Q By an overfill of the engine you mean they would be
6 filling up the engine with fuel; it would overflow
7 and they would shut it off?

8 A Yes.

9 Q And my understanding is there is a drain sort of
10 system where it would drain in?

11 A Yes.

12 Q Okay. Are you familiar with any other spills of
13 material?

14 A No.

15 Q You mentioned that your job in the B & B Department
16 requires that you travel around the yard and fix
17 various electrical components?

18 A Uh-huh.

19 Q In your travels as it were, had you ever seen a
20 55-gallon drum?

21 A Oh, yes. Heavens, yes.

22 Q Okay. Have you seen a lot of them? And by "a lot"
23 I mean more than 20.

24 A Yes.

25 Q Do you know where exactly you've seen them?

1 A The store house.

2 Q Do you know what they contain?

3 A No. There would be that -- that accountant
4 reference on there that you could take it and go in
5 the catalog and look it up, but I've never --

6 Q All right. What about in 1976? I am interested in
7 I guess now like from '76 to '80. Do you remember
8 seeing any 55-gallon drums?

9 A Yes. Yes.

10 Q Other than at the car shop?

11 A I have seen -- yes, I've seen 55-gallon drums of --
12 well, I don't know what. And maybe nothing. But
13 there's a dump site area in the yard there.

14 Q And where is that?

15 (Plaintiff's Exhibit No. 1
16 marked for identification.)

17 Handing you what's been marked as the
18 Plaintiff's Exhibit No. 1, do you recognize that
19 diagram?

20 A Uh-huh.

21 Q What do you recognize this diagram as?

22 A Well, it's an aerial view of the Elkhart Yard.

23 Q Is that the Elkhart Conrail rail yard?

24 A Yes, sir.

25 Q Can you identify on this diagram the location of

1 that burial area?

2 A Yes, pretty much.

3 Q If you would just make an "X" with my pen on it,
4 that would be helpful.

5 A (Witness complies.)

6 Q Okay. And approximately how many drums have you
7 seen there?

8 A I'm going to say ten.

9 Q Do you know what they contained?

10 A Sometimes they were just people's trash barrels.
11 You could see that it was half full of junk or
12 trash, you know, burning trash type of thing, and
13 they would just bring it there and throw it in the
14 land -- or our landfill.

15 Q From?

16 A Home, I think.

17 Q So these are possibly drums from outside of
18 Conrail?

19 A I always assumed that they were from Conrail.

20 Q Okay.

21 A Except for like that (indicating), but ...

22 Q Do you have any idea from where within Conrail
23 those drums would come from?

24 A No. A lot of people -- you know, all departments
25 had their material come from drums.

1 Q Do you remember what year you remember seeing those
2 drums there?

3 A This would be over a time frame from the day I
4 hired out until -- there was a point in time when
5 they quit using that dump.

6 Q Do you remember when that point in time was?

7 A Not exactly. I'm going to -- I'm going to say '88.

8 Q So between --

9 A '89.

10 Q (Continuing) -- 1976 and 1988 you remember seeing
11 drums in that area?

12 A Uh-huh.

13 Q Do you remember what color the drums were?

14 A No.

15 Q Do you remember anyone discussing the nature of the
16 material in those drums or where or why those drums
17 are there?

18 A No. Like I say, I know some of them were people's
19 trash barrels because you could --

20 Q See the trash?

21 A Yes.

22 Q Were these drums ultimately buried?

23 A Oh, yes. I'm sure they were.

24 Q So to best the best of your knowledge those drums
25 are still out there but they are buried?

1 A Probably, yes.

2 Q Do you know whether there's been any -- strike
3 that.

4 Are you aware of any other drums other than
5 those in the yard? You mentioned that you saw some
6 at the Purchasing Department?

7 A At the store house, yes.

8 Q At the store house? I'm sorry.

9 A They have rows of them.

10 Q Other than the store house and the area in the yard
11 that you've identified on the Plaintiff's Exhibit
12 No. 1 with an "X," can you think of any other place
13 where you've seen drums in the yard?

14 A Uh-huh.

15 Q And where would that be?

16 A Along this receiving yard here (indicating).

17 Q For the record, the deponent is referring to the
18 southeast corner of square 2-A?

19 A I have seen 55-gallon drums on a skid set along
20 those yards.

21 Q Along these tracks there?

22 A Yes.

23 Q In the receiving yard?

24 A Uh-huh.

25 Q Do you ever any idea what those drums contain?

1 A They always told me it was journal oil for the car
2 men. The car men would fill their oil cans up from
3 these drums and put them in their cars.

4 Q Do you remember what color those drums are?

5 A I could guess.

6 Q Only if you know.

7 A I don't know for sure.

8 Q Okay. Approximately how many drums do you remember
9 seeing there?

10 A I believe there with four of them on each pallet,
11 and I'm going to say 12.

12 Q And what year do you remember seeing those there,
13 approximately?

14 A I don't -- it would just be a guess.

15 Seems to me that they only had them there for
16 what as best as I can recall is a year or two that
17 they did it that way.

18 Q Is that the seventies or eighties, or --

19 A No. I'm going to say it was '87, '88.

20 Q Okay.

21 A Maybe later than that. I really don't remember.

22 Q Do you know whether these drums were used for
23 anything other than journal oil?

24 A No. And I just -- I don't even know that they had
25 journal oil in them.

1 Q I understand. You don't know for sure they were
2 used for journal oil, but that's what you imagine?

3 A Just as I would drive by and would look and from
4 what people told me.

5 Q Okay. Is there anyplace else that you would see
6 55-gallon drums out there? I guess again, you
7 can -- if you want to break it up into time
8 periods, that's fine.

9 A I see them around the engine house stored inside.

10 Q What year are you referring to?

11 A Well, I think that there's some there today. You
12 know, I think that they have got a -- some of their
13 liquids ever since I can remember in 55-gallon
14 drums there.

15 Q Can you think of any 55-gallon drums you've seen in
16 the yard other than the ones you've identified
17 between 1976 and 1980?

18 A No. No, other than -- no. That's it.

19 Q Okay. The ones you identified in the engine house,
20 what color are those or were those?

21 A There again, I would have to guess.

22 Q Only if you know.

23 A I don't know.

24 Q Do you know what they contained?

25 A I think some of them had that soap that I referred

1 to earlier.

2 Q Okay.

3 A Or cleaner.

4 Q Okay. Now, I understand there were 55-gallon drums
5 of that cleaner or soap and fuel oil and lube oil
6 in the engine house?

7 A I'm sure that there is.

8 Q Are you aware of 55-gallon drums of anything other
9 than those three substances kept in the engine
10 house or around the engine house?

11 A Other than -- no, I think that -- you said engine
12 oil or something like that, but I think there's a
13 variety of -- fuel oil and lube oil, but I think
14 that pretty well covers it.

15 Q And there's no other location in the yard you can
16 think of where you've seen 55-gallon drums since
17 1968, is that right?

18 A Besides the car shop and the engine house, that --
19 I think that's about it.

20 Q You mentioned there were some drums out at the car
21 shop. What color were those drums, do you
22 remember?

23 A The ones that I was referring to, the store house
24 department is on the west end of the car shop.

25 Q Okay. So the store house drums are the same as the

1 car shop drums?

2 A Yes.

3 Q Okay. I understand.

4 What kind of waste is generated in the B & B
5 Department? And by "waste" I mean liquid waste.

6 A I guess basically the only thing that comes to my
7 mind would be used air compressor oil.

8 Q And what is done with that oil, do you know?

9 A They usually -- they have a couple of options.
10 They can run it through the oil/water separator,
11 and then there's a company that picks it up. They
12 can also -- the Track Department have these -- I'm
13 going to guess at 300-gallon tanks that they use --
14 use motor oil in for their equipment and we can
15 just add it to theirs.

16 Q That's above ground tanks?

17 A Yes. They are diked.

18 Q Okay. Do you know where that other compressor oil
19 comes from?

20 A A couple different places.

21 Q If you just give me the brand names, that would be
22 fine. If you know them.

23 A One of them comes from Ingersol Rand, and it's a
24 synthetic coolant call Ultra Cooling, I believe.

25 Q Okay. And the other?

1 A Comes through company stores, and it's just a 28 --
2 20 weight motor oil.

3 Q Okay.

4 A And I couldn't tell you a brand.

5 Q All right. Can you think of any other waste
6 material other than that air compressor oil?

7 A As far as liquid waste goes, no, I don't think so.
8 I think that's got most of it that I can think of.

9 Q Do you use a -- strike that.

10 Do you use the PVC at all, polyvinyl chloride
11 piping?

12 A Pipe?

13 Q Yes.

14 A Yes, sure.

15 Q Do you use a cleaner for that pipe?

16 A Uh-huh.

17 Q What kind of cleaner is that, do you know?

18 A It's whatever Mid-City Supply sells to us.

19 It's a standard cleaner, but I couldn't tell
20 you any farther than that.

21 Q Okay. Are you aware of any other cleaners like
22 that material used by B & B employees?

23 A Not that I can recall right offhand.

24 Q We heard some testimony earlier regarding the
25 lifter pumps associated with drainage system,

1 and -- or the septic system, I guess?

2 A Okay.

3 Q And during that testimony, we know -- or based on
4 that deposition, we know that the motors are
5 generally replaced.

6 Is that your knowledge -- I mean is that
7 your understanding of how lifter pumps are
8 maintained?

9 A Yes, but I don't necessarily agree with that. I
10 would say half the time they are replaced.

11 Q Okay. Are they repaired other times?

12 A Uh-huh.

13 Q And who repairs them?

14 A There's an electrical motor repair shop called
15 Motor Electric in Elkhart, Indiana, and they -- we
16 take it in and give it to them and pick it up, you
17 know, later and it's rewound or whatever.

18 Q Are those motors ever cleaned out at Elkhart?

19 A No.

20 Q You just basically take the motor out and send it
21 to the --

22 A Yes.

23 Q (Continuing) -- electronic repair place and they
24 bring it back?

25 A Yes. I mean it -- I mean other than just wiping it

1 down with a rag, you know, but the motors I'm
2 talking about now are not submerged. You know,
3 the pump is 15 feet long for the whole assembly.

4 Q Yes. Are you familiar with the use of electrical
5 cleaners in the yard anywhere other than in the
6 engine house?

7 A Well, we use that electronic cleaner in our
8 department, spray can, aerosol cans of it.

9 Q And you use that in all the buildings?

10 A No. It's something that you carry along with you.
11 One of the places we use it is when we work on a --
12 most of our heating equipment is oil fired, and
13 periodically you need to disassemble it and clean
14 it, and it's an oily stuff, and we spray that
15 equipment. We use that electronic cleaner as a
16 cleaner to clean that equipment.

17 Q That's a solvent sort of cleaner?

18 A Yes. It's a nozzle assembly. You can hold it in
19 your hand (indicating).

20 Q And you just spray it down with this and then wipe
21 it off?

22 A Uh-huh.

23 Q Okay. When you are done with a can of that stuff,
24 do you just throw it in the garbage?

25 A Uh-huh.

1 Q The area that you've identified on Plaintiff's
2 Exhibit No. 1 with an "X" where you saw drums of
3 material with garbage in them, is it possible that
4 cans of this material would have been thrown in
5 there?

6 A Yeah, I would say it was possible.

7 Q Okay. Are you familiar with a Safety Clean parts
8 washer?

9 A I know where I think one of what you are talking
10 about is, yes.

11 Q And where is that located?

12 A At the retarder tower or CRO tower.

13 Q Do you know whether it's used?

14 A I'm sure it is.

15 Q Do you know who uses it?

16 A The C and S people.

17 Q Who would be able to tell me more about the
18 retarders -- or about that piece of machinery?

19 A Their supervisor.

20 Q Is that Mr. Bureau?

21 A Dan Burrell could tell you.

22 Q Burrell?

23 A I'm sure.

24 Q Okay. Why do they need one, do you know?

25 A I can give you my version of why they need one.

1 Q Okay.

2 A The equipment that they work on, the switch
3 machines themselves are -- the gears inside of them
4 are lubricated, and they need to clean that before
5 they would reassemble it, so they can inspect it.

6 Q And do those switch machines normally get greasy?

7 A I think that they -- that they lubricate these
8 gears that are inside that machine on purpose.

9 Q I see.

10 A And so that they --

11 Q So it's to clean the lubricant off?

12 A Yes.

13 Q Do you know how long they have used this?

14 A I don't remember it being in there except for the
15 last year or two.

16 Q Okay. How long has Mr. Bureau been with Conrail,
17 do you know -- or Burrell; I'm sorry?

18 A I don't know. I -- I don't know.

19 Q Okay. Is there any other machinery you use in the
20 B & B Department that requires cleaning?

21 A Are you thinking along the lines of like that
22 aerosol where we would clean a relay and an air
23 conditioner, that kind of thing.

24 Q Yes.

25 A Yes, from time to time they would have me to do

1 that kind of thing.

2 Q And what kind of machinery would you clean that
3 way?

4 A It would be a relay in an air conditioner,
5 something like that.

6 Q It's my understanding that you use this stuff on a
7 fairly regular basis?

8 A Uh-huh.

9 Q This cleaner.

10 About how much would you go through in a
11 month or a week, whatever is more accurate?

12 A It goes in spurts, and I'm going to say two cans a
13 month on the average for a year.

14 Q That's yourself?

15 A Yes.

16 Q And how many electricians are there in the Elkhart
17 yard, do you know?

18 A Well, our department has five. There's
19 electricians in the engine house.

20 Q Do you know how many?

21 A I don't know, no.

22 Q More than ten?

23 A Probably ten is a pretty good figure.

24 Q Okay. Any other electricians?

25 A No. Not in the yard there.

1 Q Okay.

2 A There's one at the main line fuel pad, an
3 electrician.

4 Q An electrician?

5 A Yes.

6 Q Do you know what that individual's name is?

7 A I think he just got off that job. His name is
8 Lloyd Cole.

9 Q Do you know how long Mr. Cole has been with
10 Conrail?

11 A Nearly as long as I have. I'm going to say since
12 1970.

13 Q Do you know how long he has been at the Elkhart
14 yards?

15 A He's always worked in the --

16 Q Okay.

17 A At the yard.

18 Q And he's also responsible for electrical
19 maintenance?

20 A That particular job with the main line fuel pad, he
21 gets into changing sand hoses and more than just
22 electrical maintenance there.

23 Q Okay..

24 A Some plumbing, that type of thing.

25 Q Is there a lot of maintenance that occurs at that

1 main line fuel pad?

2 A Uh-huh.

3 Q How long has been the main line fuel pad been
4 there, do you know?

5 A That was constructed in -- I'm going to say '89,
6 something like that. '88, '89.

7 Q Okay.

8 A It's new.

9 Q Okay. I may have asked you this question before.
10 You identified two spills that you remember at the
11 Elkhart Yard. Can you remember any more?

12 Spills of liquid.

13 A No.

14 Q Any spills in the B & B building?

15 A No.

16 Q Can you remember seeing any stained soil in your
17 travels working on various electrical components
18 in other buildings?

19 A Around the engine house you see stained soil.

20 Q And that's from fuel oil or something like that?

21 A Yes.

22 Q Anything other than that?

23 A Not right offhand.

24 Well, yes. I see some around the retarder
25 tower, I think.

1 Q What kind of staining do you remember seeing
2 there?

3 A It was just different colored soil.

4 Q Was it darker, lighter?

5 A It was just a different color.

6 Q Okay. Was it a large stain or --

7 A No. I think it was -- you know, almost put your
8 arms around it, that kind of thing (indicating).

9 Q Okay. What year was this, do you remember?

10 A No. I just -- it's just something that I believe I
11 can remember seeing around there.

12 Q Approximately seventies, eighties, nineties?

13 A I'd say eighties.

14 Q Early eighties?

15 A I really don't -- I just, you know, remember seeing
16 the soil look a little different around there, and
17 I --

18 Q Is it still stained, do you know?

19 A I've got an idea if you went and looked you would
20 still find it there, yes.

21 MR. LINDLAND: Okay. I have no further
22 questions.

23 MR. ROSSWURM: Mr. Slabaugh, my name is
24 Glenn Rosswurm and I'm local counsel for
25 Conrail, one of the Defendants in this case.

I just have a few brief questions for you.

CROSS EXAMINATION

BY MR. ROSSWURM:

Q I believe you stated you started working at the Elkhart Yard in 1968 for Penn Central, is that correct?

A Uh-huh.

Q During your first three years on the job were you aware of or did you have any knowledge of any spills at all in the yard? Did you hear about anything or know about any spills at all?

A No.

Q Okay. Did you know a man named Claude Bruton during that time?

A No. I didn't. I didn't, no.

Q Have you ever heard of him?

A No. The name doesn't really ring a bell, to tell you the truth.

Q Okay. Do you know Ted Berkshire?

A I have to answer the same for that name, too.

Q Okay. Are you familiar with the general layout of the tracks at the Elkhart Yard?

A Yes. In general.

Q Okay. Do you know approximately where Track 69 is located in the yard?

1 A Uh-huh.

2 Q Since your tenure began at the Elkhart Yard in
3 1968, are you aware of any changes involving the
4 layout of the tracks or in particular Track 69?

5 A No.

6 MR. ROSSWURM: That's everything I have.
7 Thank you.

8 MR. LINDLAND: I have one more question.

9 REDIRECT EXAMINATION

10 BY MR. LINDLAND:

11 Q Regarding the stain that you were just talking
12 about, do you remember any vapors or smell
13 associated with the area around the stain?

14 A Huh-uh.

15 Q Do you have any idea what the material is that the
16 soil is stained with?

17 A Any answer I would give you would just be a guess.

18 Q How about a best guess?

19 A Probably grease. They grease the retarders, and I
20 would just guess that it's, you know, grease that
21 got on the ground and --

22 Q Okay. Is it near where the retarders are located?
23 Is that the basis for your --

24 A Yes, it's out in that area.

25 MR. LINDLAND: Okay. I have no further

1 questions. However, we do reserve the right
2 to re-examine in witness subject to the
3 production of any documents identified in
4 this deposition.

5 MR. ERMILIO: I have no questions.

6 (Deposition concluded at 1:35 p.m.)
7
8

9 Lawrence Sidney Slabaugh

10 SUBSCRIBED AND SWORN to before
11 me this ____ day of _____,
12 A.D., 1992.

13 Notary Public, State of Indiana
14 County of Residence:
15 My Commission Expires:
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CERTIFICATE

I, Richard L. Holle, a Notary Public in and for the County of St. Joseph and State of Indiana, duly authorized to administer oaths, do hereby certify there appeared before me at the said time and place LAWRENCE SIDNEY SLABAUGH, who was first duly sworn to testify the truth, the whole truth, and nothing but the truth in response to questions propounded at the taking of the foregoing deposition in the foregoing cause.

I further certify that I reported in machine shorthand (Xscribe) the testimony so given and that it was then reduced to typewriting under my supervision; that the foregoing typewritten transcript is a true and accurate record thereof.

I further certify that deposition was read and signed in the presence of a duly authorized officer by the deponent.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this ____ day of _____, A.D., 1992.

Richard L. Holle, CSR, CP
Notary Public, State of Indiana
Residence: St. Joseph County
My Commission Expires 2-22-95